

OFFICE OF THE DEPUTY DIRECTOR

6 June 1977

NOTE FOR: Director of Security

SUBJECT : Rockefeller Commission Report

The DCI has completed his review of action taken and/or current status of the Rockefeller Commission recommendations. He has raised questions on two items concerning your office.

Please provide your response to this office by June 15, so that we can submit a coordinated reply to the DCI.

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AXDCI

Attachment:
As stated

Executive Registry
77-872/6

DCI

(EXECUTIVE REGISTRY FILE DCI)

Recommendation (2)

The President should by Executive Order prohibit the CIA from the collection of information about the domestic activities of United States citizens (whether by overt or covert means), the evaluation, correlation, and dissemination of analyses or reports about such activities, and the storage of such information, with exceptions for the following categories of persons or activities:

a. Persons presently or formerly affiliated, or being considered for affiliation, with the CIA, directly or indirectly, or others who require clearance by the CIA to receive classified information;

b. Persons or activities that pose a clear threat to CIA facilities or personnel, provided that proper coordination with the FBI is accomplished;

c. Persons suspected of espionage or other illegal activities relating to foreign intelligence, provided that proper coordination with the FBI is accomplished.

d. Information which is received incidental to appropriate CIA activities may be transmitted to an agency with appropriate jurisdiction, including law enforcement agencies.

Collection of information from normal library sources such as newspapers, books, magazines and other such documents is not to be affected by this order.

Information currently being maintained which is inconsistent with the order should be destroyed at the conclusion of the current congressional investigations or as soon thereafter as permitted by law.

The CIA should periodically screen its files and eliminate all material inconsistent with the order.

The order should be issued after consultation with the National Security Council, the Attorney General, and the Director of Central Intelligence. Any modification of the order would be permitted only through published amendments.

Response

I concur in this recommendation.

Status (as of 12 May 1977):

The recommended limitations are spelled out in E.O. 11905. Within CIA, further guidance is provided in [] issued 19 April 1976, with some sections revised 22 January 1977. Under existing manpower constraints, however, certain file holdings - especially those of the Office of Security - will require considerable time to review and purge. To keep within the spirit of compliance with this recommendation and with E. O. 11905, the Office of Security has developed a plan to prevent any future accumulation of improper material, to remove such material from existing holdings as soon as possible within resource limitations, and to preclude the use of improper material for purposes other than those required by laws such as the Freedom of Information and Privacy Acts. This plan was submitted to the DDCI for approval on 26 April 1977 and is currently being reviewed by the Inspector General's office.

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*I'd appreciate an estimate on
time required; & manpower
required to reduce that time to
a short interval.*

Recommendation (18)

a. The Director of Central Intelligence should issue clear guidelines setting forth the situations in which the CIA is justified in conducting its own investigation of individuals presently or formerly affiliated with it.

b. The guidelines should permit the CIA to conduct investigations of such persons only when the Director of Central Intelligence first determines that the investigation is necessary to protect intelligence sources and methods the disclosure of which might endanger the national security.

c. Such investigations must be coordinated with the FBI whenever substantial evidence suggesting espionage or violation of a federal criminal statute is discovered.

Response

I concur in this recommendation. I suggest somewhat greater precision in it, however, as follows:

a. The Director of Central Intelligence should have as a base the same administrative authority over CIA employees as any departmental or agency chief. This should give him the right to conduct administrative investigations to ascertain whether or not a substantial security or management problem may exist.

b. In cases in which evidence suggesting espionage or violation of a Federal or State criminal statute is discovered, the FBI or appropriate local authorities should be informed and the Agency should undertake a supporting rather than primary role with respect to any further investigation.

c. Where the preliminary examination indicates the possibility of a security problem not likely to involve espionage or violation of a criminal statute, but reflecting on the suitability of continued access to sensitive intelligence sources and methods or suggesting corrective action with respect to such access, the CIA should be authorized to conduct an investigation using lawful methods of surveillance, provided there is coordination with the FBI.

d. When appropriate, the DCI will consult with the Attorney General with respect to issuance of guidelines.

Status (as of 12 May 1977):

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The most important regulation bearing on this question is [redacted] 19 April 1976, which makes certain exceptions to the general rule that the Agency may not collect information, by any means, concerning the domestic activities of United States persons. One of these exceptions is as follows (underscored passages are direct quotes from E.O. 11905):

"Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry." The following amplification occurs as a footnote to [redacted] "This exception recognizes several appropriate activities of foreign intelligence agencies. In order to protect classified information, intelligence agencies must run security checks on applicants for employment and employees. Like any Government agency, these agencies must also check out employee backgrounds to ascertain their job suitability. Even after a person has left an intelligence agency, it has a legitimate need to maintain its records on that person should a security breach stemming from his employment occur. Similarly, each intelligence agency has an interest in the suitability and security worthiness of persons who contract with it or are employees of its contractors working on its projects and requiring access to classified information. Each intelligence agency must also maintain records on persons who, without necessarily being employed by it, are given access to its classified information. Such persons would include employees of other Government agencies who require access to its classified information and private citizens who voluntarily agree to be cleared to receive classified information in order to aid in their voluntary reporting of foreign intelligence information to the agency." The regulation continues: "(Note, however, that Section 4(b)(8) of the Executive Order further provides that: 'In order to maintain this security (the security of its intelligence activities, information and personnel), the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.')" Only the Director or the Inspector General may approve investigation of allegations of unauthorized disclosure of classified information or intelligence sources and methods by United States persons presently or formerly affiliated with CIA. Such approval will be given only upon determination that classified information or intelligence sources and methods may be jeopardized by the

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disclosure and that the information relating to the unauthorized disclosure was acquired as a result of affiliation with CIA. Such investigations must be coordinated with the FBI where substantial evidence suggests espionage or the violation of a federal statute. The above does not preclude the Director from exercising his statutory authority to fulfill his responsibility for CIA's proper administration. In this regard the Director also may approve such inquiries as are necessary, proper, and legal to resolve allegations reflecting adversely on an employee's suitability for continued employment. Where necessary for security reasons, investigations will be conducted by federal government personnel. A record must be prepared for all investigations undertaken by CIA to reflect that the investigation was duly approved, by whom it was approved, the factual basis for undertaking the investigation, and the results of the investigation."

*I'd appreciate a
discussion on this item -
What investigations are we
conducting - especially on
people in contact with people
affiliated with us; who
oversees these investigations*